

(ix) *Computations based on hearing decision.* (A) Once the hearing officer's decision is considered final in accordance with paragraph (c)(7)(x) of this section, a third party not involved in the initial RADV payment error calculation recalculates the MA organization's RADV payment error and issues a new RADV audit report to the appellant MA organization and CMS.

(B) For MA organizations appealing the RADV error calculation only, a third party not involved in the initial RADV payment error calculation recalculates the MA organization's RADV payment error and issues a new RADV audit report to the appellant MA organization and CMS.

(x) *Effect of the Hearing Officer's decision.* The hearing officer's decision is final unless the decision is reversed or modified by the CMS Administrator.

(8) *CMS Administrator review stage.* (i) A request for CMS Administrator review must be made in writing and filed with the CMS Administrator.

(ii) CMS or a MA organization that has received a hearing officer's decision and requests review by the CMS Administrator must do so within 60 days of receipt of the hearing officer's decision.

(iii) After receiving a request for review, the CMS Administrator has the discretion to elect to review the hearing officer's decision or to decline to review the hearing officer's decision.

(iv) If the CMS Administrator elects to review the hearing decision—

(A) The CMS Administrator acknowledges the decision to review the hearing decision in writing and notifies CMS and the MA organization of their right to submit comments within 15 days of the date of the notification; and

(B) The CMS Administrator is limited to the review of the record. The record is comprised of the following:

(1) The record is comprised of documents described at paragraph (c)(7)(vii)(B)(3) of this section.

(2) The hearing record.

(3) Written arguments from the MA organization or CMS explaining why either or both parties believe the hearing officer's determination was correct or incorrect.

(C) The CMS Administrator reviews the record and determines whether the hearing officer's determination should be upheld, reversed, or modified.

(v) The CMS Administrator renders his or her final decision in writing to the parties within 60 days of acknowledging his or her decision to review the hearing officer's decision.

(vi) The decision of the hearing officer is final if the CMS Administrator—

(A) Declines to review the hearing officer's decision; or

(B) Does not make a decision within 60 days.

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**§ 422.312 Announcement of annual capitation rate, benchmarks, and methodology changes.**

(a) *Capitation rates*—(1) *Initial announcement.* Not later than the first Monday in April each year, CMS announces to MA organizations and other interested parties the following information for each MA payment area for the following calendar year:

(i) The annual MA capitation rate.

(ii) The risk and other factors to be used in adjusting those rates under § 422.308 for payments for months in that year.

(2) CMS includes in the announcement an explanation of assumptions used and a description of the risk and other factors.

(3) *Regional benchmark announcement.* Before the beginning of each annual, coordinated election period under § 422.62(a)(2), CMS will announce to MA organizations and other interested parties the MA region-specific non-drug monthly benchmark amount for the year involved for each MA region and each MA regional plan for which a bid was submitted under § 422.256.

(b) *Advance notice of changes in methodology.* (1) No later than 45 days before making the announcement under paragraph (a)(1) of this section, CMS notifies MA organizations of changes it proposes to make in the factors and the methodology it used in the previous determination of capitation rates.

(2) The MA organizations have 15 days to comment on the proposed changes.